

REMARKS

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1-13, 44-47, 49 and 50 are now present in the application. No claims have been amended in this Reply. Claims 1 and 44 are independent. Reconsideration of this application is respectfully requested.

Interview With The Examiner

A telephone interview was conducted with the Examiner in charge of the above-identified application on October 21, 2010. Applicant greatly appreciates the courtesy shown by the Examiner during the interview.

During the interview with the Examiner, Applicant's representative presented arguments with regard to the rejection under 35 U.S.C. § 112, first paragraph. The Examiner indicated that the presented arguments are persuasive and would overcome the rejection under 35 U.S.C. § 112, first paragraph.

Priority Under 35 U.S.C. §119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. §119, and receipt of the certified priority document.

Claim Rejections Under 35 U.S.C. §112

Claims 1-13, 44-47, 49 and 50 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 1-13, 44-47, 49 and 50 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly

point out and distinctly claim the subject matter which Applicant regards as the invention. These rejections are respectfully traversed.

As explained during the interview, although the same threshold value of the stimulation is used for measuring an applied stimulation, the measurement is respectively performed on different points (i.e., the sympathetic tone-neutral point and the sympathetic tone-dependent point). The specification as originally filed clearly defines the phrases “stimulation,” “sympathetic tone-neutral point,” “sympathetic tone-dependent point” and “threshold value of the simulation.” In particular, the specification on page 8, line 23 – page 9, line 11 discloses:

The phrase “stimulation” denotes any type of stimulation which activates the skin's mechanoreceptors, thermoreceptor and/or nociceptive receptors. Stimulation may be provided as mechanical, thermal, radiation and/or chemical stimuli. A mechanical stimulation may for instance be provided by means of a compressive force. A thermal stimulation may for instance be provided by means of cold and/or heat. Radiation stimulation may for instance be provided by means of an applied infrared, visible and/or ultraviolet light or combined spectra thereof, eg. a laser, light-emitting diode, infrared, ultraviolet and/or white light source. Chemical stimulation may be provided by means of an organic and/or an inorganic compound.

The phrase “sympathetic tone-neutral point” denotes a point on the body in which the sensitivity to an applied stimulation is independent of the activity level of the sympathetic nervous system.

The phrase “sympathetic tone-dependent point” denotes a point on the body in which the sensitivity to an applied stimulation is dependent on the activity level of the sympathetic nervous system.

The phrase “threshold value of the simulation” denotes at which intensity the applied stimulation is to be applied to a given point in order for the person to perceive the applied stimulation as not pleasant, more specifically as unpleasant or as pain. (Emphasis added).

In view of the above-noted definition, it is clear that since the points to be measured are different (i.e., sympathetic tone-neutral point v. sympathetic tone-dependent point), the applied stimulation at the same threshold value of the stimulation for different points may be different,

because the sensitivity to perceive the applied stimulation as pain for different points may be different. For example, the applied stimulation at a threshold value of the stimulation in the sympathetic tone-dependent point may be lower than the applied stimulation at the same threshold value of the stimulation in the sympathetic tone-neutral point for a person to perceive the applied stimulation as pain, because the sensitivity of the sympathetic tone-dependent point to an applied stimulation is dependent on the activity level of the sympathetic nervous system.

In view of the above, it is believed that all pending claims comply with the enablement requirement and are definite and clear. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first and second paragraphs, are therefore respectfully requested.

Claim Rejections Under Obviousness-type Double Patenting

Claims 1-13, 44-47, 49 and 50 provisionally stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 123-134 of co-pending Application No. 12/440,438. Claims 1-10 and 44-46 provisionally stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of co-pending Application No. 11/885,486. These rejections are respectfully traversed.

Applicant respectfully submits that because the claims in the '438 Application and the '486 Application have not been indicated as being allowable, no further comment or action is necessary at this time.

It is also noted that the present application was filed prior to the '438 Application and the '486 Application. Therefore, once the present application is in condition for allowance except for

the obviousness-type double patenting rejection, this application should be allowed **without the necessity of filing a Terminal Disclaimer** (see MPEP § 804(I)(B)(1)).

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Cheng-Kang (Greg) Hsu, Registration No. 61,007 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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